

DOCKET SECTION

BEFORE THE

POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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Docket No. R97-1

POSTAL RATE AND FEE CHANGES, 1997

DOUGLAS F. CARLSON
RESPONSE TO COMMENTS OF UNITED STATES POSTAL SERVICE
ON EVIDENTIARY STATUS OF DOUGLAS F. CARLSON LETTERS ADMITTED
INTO THE RECORD AT THE MARCH 16, 1998, HEARING
FOR POSTAL SERVICE WITNESS NEEDHAM

March 30, 1998

In her rebuttal testimony, witness Needham suggests that the Postal Service has responded to my complaints about poor service at my post-office box in Berkeley, California.¹ In support of her assertion, she provides copies of letters from Berkeley Postmaster George Banks dated September 12, 1997, October 3, 1997, November 3, 1997, and January 21, 1998.² Attached to the November 3, 1997, letter is a memorandum dated October 30, 1997, from Oakland Senior Plant Manager Carol A. Miller.³ In claiming that these letters respond to my concerns, witness Needham failed to provide copies of the letters that I had submitted to the Postal Service explaining my service complaints. Indeed, she had not even seen the letters when she wrote her rebuttal testimony.⁴

During oral cross-examination on March 16, 1998, I moved to introduce three of my letters into evidence,⁵ subject to authentication that the letters that I provided were "the letters that were sent in."⁶ The Postal Service now suggests that two of the letters,

¹ USPS-RT-23 at 4-7 (Tr. 32/17054-57).

² *Id.* at 8-13 (Tr. 32/17058-63).

³ *Id.* at 11-12 (Tr. 32/17061-62).

⁴ Tr. 32/17094, lines 24-25 through Tr. 32/17095, line 1.

⁵ Tr. 32/17096-98.

⁶ Tr. 32/17097.

DFC/USPS-RT-23-XE-2 and 3 (Tr. 32/17099–17102), should be stricken from the record or accorded no weight by the Commission because they are not the letters to which Postmaster Banks and Senior Plant Manager Miller were responding in the letters that witness Needham provided in her rebuttal testimony.⁷ Unfortunately, the Postal Service's interpretation of my verbal motion at the hearing is unreasonably narrow.

A minute or two before I made my motion, the following exchange took place between witness Needham and me:

Q: Why did you not ask to see my letters when you requested the Postal Service response letters from Berkeley in preparing your testimony?

A: Oh, I didn't ask not to see them. They just weren't provided to me.

Q: Don't you think you could have made a better assessment of whether the letters responded to my concerns by seeing what my concerns were in my own words?⁸

The discussion here concerned the degree to which the letters that witness Needham submitted in her rebuttal testimony responded to my service complaints. While witness Needham suggests that my local postal officials have responded to my concerns, in reality local postal officials have *failed* to respond to DFC/USPS-RT-23-XE-2 and 3. Their failure to respond to these letters undermines witness Needham's claim that local officials have responded to my complaints.

DFC/USPS-RT-23-XE-3 is my November 7, 1997, letter to Senior Plant Manager Miller, in which I responded to Miller's October 30, 1997, memorandum to Postmaster Banks concerning delays in delivery of my First-Class flats. As I explained in my letter, I believed that her October 30, 1997, memo suggested that the focus of the inquiry had shifted from solving the delivery problems to "trying to disprove my claim about delivery problems and the accuracy of my data."⁹ While witness Needham suggests in her testimony that Miller's October 30, 1997, memo constituted "responsive

⁷ Comments of United States Postal Service on Evidentiary Status of Douglas F. Carlson Letters Admitted into the Record at the March 16, 1998, Hearing for Postal Service Witness Needham, filed March 20, 1998.

⁸ Tr. 32/17095, lines 18–25.

⁹ Tr. 32/17100.

action” to my complaints,¹⁰ my November 7, 1997, letter clearly reveals my dissatisfaction with the response. I properly moved to admit this letter into evidence because witness Needham’s claim that the October 30, 1997, memo responded to my concerns was misleading given that I had written a follow-up letter and the Postal Service had failed to respond to it. As I explained in moving to admit the letters into evidence, the letters that witness Needham provided cannot accurately “assess the situation” unless my letters are available for review as well.¹¹

The Postal Service claims that I inaccurately represented that these letters were “initial inquiries.”¹² In making this motion verbally, I apparently caused confusion by using the term “initial inquiries,” by which I simply meant the letters that I sent in that resulted (or did not result) in response letters from the Postal Service. My cross-examination at Tr. 32/17094–96 clearly demonstrates that I was referring to “my letters”¹³ regarding service problems, not only my “initial” letters that actually generated responses. A party’s precise words in a verbal motion must be construed in the context in which they were made. For example, when the presiding officer asked witness Needham a question and inadvertently referred to “Mr. Carlson’s letters, at least the ones that you appended to your rebuttal testimony,” witness Needham understood his question even though she had not, in fact, appended any of my letters to her testimony.¹⁴ My motion should be interpreted in the context in which I made it, and the presiding officer properly recognized the importance of admitting my letters into evidence.

DFC/USPS-RT-23-XE-2 is my October 27, 1997, letter to Berkeley Postmaster Banks about his post office’s repeated failure to distribute box mail by the posted 11:00 AM cutoff time. Postmaster Banks has not responded to this letter; the only response that I have received from the Postal Service is in the form of witness Needham’s rebuttal testimony at 6–7. Witness Needham asserts that efforts to improve delivery to

¹⁰ USPS-RT-23 at 6 (Tr. 32/17056).

¹¹ Tr. 32/17096–97.

¹² Comments at 3.

¹³ Tr. 32/17095, line 18.

¹⁴ Tr. 32/17089, lines 6–10.

boxes show "a responsiveness to witness Carlson's concerns."¹⁵ Only by reviewing this letter to Postmaster Banks can the Commission evaluate the Postal Service's responsiveness to my concerns. Since this letter clearly is an "initial inquiry," it fits squarely within the language of my verbal motion. Nowhere in my motion did I suggest that I did not wish to admit complaint letters to which the Postal Service had not replied. Instead, I sought to admit the October 27, 1997, letter partly *because* the letters that witness Needham supplied do *not* respond to this letter.

For the reasons explained above, the Commission should accord significant weight to DFC/USPS-RT-23-XE-2 and 3.

Respectfully submitted,

Dated: March 30, 1998



DOUGLAS F. CARLSON

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the required participants of record in accordance with section 12 of the *Rules of Practice* and section 3(B) of the *Special Rules of Practice*.



DOUGLAS F. CARLSON

March 30, 1998
Emeryville, California

¹⁵ USPS-RT-23 at 7 (Tr. 32/17057).